

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

MACHINISTS DISTRICT LODGE 160,
LOCAL LODGE 289

and

Case 19-CD-502

SSA MARINE

and

INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION

**ORDER REFERRING RULING ON PMA'S PETITION TO
REVOKE, REQUEST FOR A PROTECTIVE ORDER OR
INSTRUCTION, AND RESPONSES TO SUBPOENA
DUCES TECUM TO THE HEARING OFFICER**

On June 29, 2009, Counsel for Pacific Maritime Association filed with the Regional Director for Region 19, PMA's Petition to Revoke, Request for a Protective Order or Instruction, and Responses to Subpoena Duces Tecum.

IT IS HEREBY ORDERED that the Petition to Revoke Subpoena be, and it hereby is, referred for ruling to the Hearing Officer.

DATED at Seattle, Washington, this 29th day of June, 2009.



Richard L. Ahearn, Regional Director
National Labor Relations Board, Region 19
2948 Jackson Federal Building
915 Second Avenue
Seattle, Washington 98174

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ORDER OR INSTRUCTION, AND
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**PMA'S PETITION TO REVOKE, REQUEST FOR A PROTECTIVE ORDER OR
INSTRUCTION, AND RESPONSES TO SUBPOENA DUCES TECUM**

Pursuant to Sections 102.31 of the NLRB Rules and Regulations, the Pacific Maritime Association files this Petition to Revoke, Request for a Protective Order or Instruction, and Responses to Subpoena Duces Tecum in response to the Subpoena Duces Tecum attached hereto as Exhibit A. The Subpoena was served on PMA's counsel by fax at 5:21 in the evening of Tuesday June 23, 2009 and requests the production of records at the 10:00 in the morning on the fifth business day thereafter. In light of the time of day of service and the time of day of production, PMA has actually been given only four business days to respond to the record requests. Although PMA has made a very reasonable effort to produce the requested documents and will produce a very substantial volume of documents, PMA makes a general objection to the unduly burdensome nature of the document requests.

In addition to the general objection stated above and without producing documents protected by the attorney-client privilege, PMA responds to the twenty-nine specific document requests as follows:

1. No such documents are in PMA's possession.
2. PMA petitions for the revocation of this request since the details of the bargaining are not relevant or necessary for the limited scope of this 10K determination and such matter is confidential and privileged for the parties to the negotiations. PMA also adopts the arguments of SSA and the ILWU in petitioning to revoke this same request.
3. PMA has in its possession and will produce payroll records from January 1, 1998 showing work in mechanical occupation codes in Seattle. Such records include the employee's name, the date of the work, the shift of the work and the name of the direct employer. For convenience in review, the records are provided in two forms: (1) organized by date and (2) organized by individual.

PMA does not possess records showing "what the employees did" other than the mechanic occupational codes.

PMA does not have direct access to records showing the location of the work and the production of the records would be unduly burdensome since, to the extent they are retained at the dispatch hall, the location of the work is contained on separate slips of paper for each of the dispatches listed in the records which are being produced.

4. The documents will be produced and PMA requests a Protective Order or Instruction from the NLRB restricting use of the personal information to this proceeding.

5. The documents will be produced and PMA requests a Protective Order or Instruction from the NLRB restricting use of the personal information to this proceeding.

6. The agreement between ILWU Local 19 and Bridge Warehouse will be produced.

7. The information and documents will be produced and PMA requests a Protective Order or Instruction from the NLRB restricting use of the personal information to this proceeding.

8. See response to Request #3 to the extent such information is in the possession of PMA.

9. The documents will be produced and PMA requests a Protective Order or Instruction from the NLRB restricting use of the personal information to this proceeding.

10. PMA has no such records.

11. The collective bargaining agreements will be produced. PMA objects to the requested dispatches since the request is unduly burdensome, PMA does not have direct access to such dispatches and the appropriate information related to such dispatches is already being produced in response to request #3.

12. See response to request #3. PMA does not possess the requested billing information.

13. The documents PMA possesses will be produced.

14. See response to request #13.

15. See response to request #3.

16. See response to request #9.

17. See response to request #3.

18. *See* responses to request #3 and #4.

19. *See* response to request #9.

20. PMA possesses no such documents.

21. *See* response to request #13.

22. The only document PMA possesses is being produced in response to request #6.

23. *See* response to request #3.

24. PMA is unaware of any such records other than the dispatch records described in response to request #3 and PMA objects to their production for the same reasons stated in the response to request #3.

25. *See* responses to requests #3 and #4.

26. *See* response to request #9.

27. *See* response to request #5.

28. *See* response to request #3.

29. *See* response to request #3.

Therefore, PMA respectfully requests the relief requested above.

DATED this 29th day of June, 2009.

BARRAN LIEBMAN LLP

By /s/ Richard F. Liebman
Richard F. Liebman, OSB No. 76406
Telephone: (503) 228-0500
Attorneys for Pacific Maritime Association

EXHIBIT A

06-23-'09 05:21 FROM-ROBBLEE BRENNAN 206-467-7589
Robblee Brennan & Detwiler
Attorneys at Law

T-541 P001/009 F-097

Jacob H. Black
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206.467.6700
206.467.7589 facsimile

Daniel Hutzenbiller
Terry C. Jensen
Richard H. Robblee
Anne Senter

FACSIMILE TRANSMITTAL SHEET

BARRAN LIEBMAN

TO: Richard Liebman (503) 274-1212
FROM: Terry Jensen, Attorney for IAM Dist, Lodge 160
DATE: 6/23/09

JUN 24 2009

RECEIVED

OUR FILE NO. 3024-368

DOCUMENT BEING SENT: Subpoena Duces Tecum

COMMENTS:

**PAGE(S) TO FOLLOW EXCLUDING COVER SHEET. IF YOU DO NOT
RECEIVE ALL OF THE PAGES, PLEASE CALL BACK AS SOON AS
POSSIBLE. OUR TELEPHONE NUMBER IS (206) 467-6700.**

CONFIDENTIAL FACSIMILE COVER SHEET

The information in this fax message is privileged and confidential. It is intended only for the use of the recipient named above (or the employee or agent responsible to deliver it to the intended recipient). If you received this in error, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify us by telephone immediately, and return the original message to us at the address listed below. We will reimburse you for any costs. Thank you.

9485.162

SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Local Custodian of Records, Pacific Maritime Association

301 W. Republican, Seattle, WA 98119-4008

As requested by Terry C. Jensen, attorney for IAM District Lodge 160

whose address is 2101 4th Ave., Suite 200 Seattle Washington 98121
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE

a Hearing Officer

of the National Labor Relations Board

at James C. Sand Hearing Room, 29th Floor, Jackson Federal Bldg, 915 Second Avenue

in the City of Seattle, WA

on the 30th day of June 20 09 at 10:00 (a.m.) or any adjourned

or rescheduled date to testify in MACHINISTS DISTRICT LODGE 160, LOCAL LODGE 289

(SSA MARINE) Case 19-CD-502

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHED

In accordance with the Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings), objections to the subpoena must be made by a petition to revoke and must be filed as set forth therein. Petitions to revoke must be received within five days of your having received the subpoena. 29 C.F.R. Section 102.111(b) (3). Failure to follow these regulations may result in the loss of any ability to raise such objections in court.

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

B - 581775

Issued at Seattle, WA.

this 23 day of June

20 09



Leopold A. Helffer

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

1. Copies of all forms of indemnity and/or hold harmless agreements between any of the following parties in relation to work that is, has been, or may be claimed by both ILWU Local 19 and the IAM (or any of its component district or local organizations):

1. The PMA
2. ILWU Local 19
3. The IAM (or any of its component district or local organizations)
4. SSA (or any of its affiliated companies/divisions)
5. Harbor Industrial
6. Bridge Warehouse

The requested documents are confined to those applicable to work in the Seattle area, and which have been in effect at any time after December 31, 2003.

2. Copies of all notes (including all forms of recording of communications) made at any time after January 1, 2006, made or kept by any representative of management of any of the organizations named in item 1, above, wherein there was discussion relevant to the apportionment of maintenance and/or repair work of power equipment in the Seattle area, between ILWU Local 19 and the IAM (or its local or district components).

This request does not seek to obtain documents or other forms of evidence legitimately protected from disclosure by attorney-client privilege.

3. An itemization of all dispatches since January 1, 2000, for those individuals listed in the item immediately, above, and the employer(s) for whom they worked on each dispatch, the locations of that work in each instance, the details of what those employees did in each such case, and how long each dispatch assignment lasted.

4. The names, addresses and phone numbers of all employees working at Terminal 91 at any time since January 1, 2007, who were performing maintenance and repair of power equipment there, related to the cruise ship industry. In each case provide the nature of the work done, the name of the employee who did the work, and the hours of work involved.

5. Copies of all disciplinary actions and/or other forms of complaints and/or concerns about the work of power maintenance and repair personnel working in the Seattle area, at any time since January 1, 2000, under either an IAM Collective Bargaining Agreement or under an ILWU Local 19 Collective Bargaining Agreement.

6. All documents relating to John Castranover's release from Bridge Warehouse to work at Terminal 91 to work on power equipment there related to cruise ship activity, and all documents relating to his return and/or expected return to active employment at Bridge Warehouse.

7. The address and all phone numbers for John Castranover.

8. Copies of the lists of all power mechanics eligible for dispatch through ILWU Local 19 to perform power M/R work in the Seattle area, at any time from January 1, 2008 through April 30, 2009.

Include the name of each such person and the days they were on a list or roster seeking such employment.

9. Copies of records showing all certifications and training of each of the persons listed immediately above, and showing the date, nature, and providers of such training.
10. Copies of records showing any rework done on any power M/R work at Terminal 91 at any time since April 1, 2009.
11. Copies of all CBAs in the Seattle area and in the State of Washington where ILWU Local 19 has a labor agreement covering power M/R work. In each case, provide copies of the last 10 dispatches (and the requests for such dispatches) for power M/R work in the Seattle area, and specifically include and designate the last 10 such requests for, and the last 10 dispatches for, power M/R work in Seattle.
12. Copies of records showing for each ILWU Local 19-represented employee who has performed power M/R on cruise ship-related power equipment since April 1, 2009, at Terminal 91, the total number of power MR assignments fulfilled by each such individual, the dates of each such assignment, the nature of that work, and the number of hours billed for each such assignment and the hourly billing rate to the customer for each hour of such work.
13. Copies of all postings, advertisements or solicitations issued at any time since January 1, 2005, in which the need for, or employment opportunities for, ILWU Local 19-represented power mechanics is discussed.

14. All postings, advertisements, solicitations, etc., in calendar years 2006, 2007, 2008 and 2009, in which Harbor Industrial has sought or requested power mechanics for work in the Seattle area.

15. Copies of records identifying by name all persons represented by ILWU Local 19 who have been employed at any time by Harbor Industrial in maintenance or repair of power equipment at Terminal 91 at any time since April 1, 2009.

16. Copies of records revealing the relevant skills, training and experience of each person referred to in the item immediately above.

17. Copies of records revealing the number of hours each individual referred to immediately above, did power M/R work since April 1, 2009, at Terminal 91, and exactly what power M/R work was done for each hour for which those individuals were paid.

18. The names, addresses and phone numbers of all employees working at Terminal 91 at any time since January 1, 2007, who were performing M/R of power equipment used there which was related to the cruise ship industry. In each case provide the nature of the work done, with which employee it was done, and the hours of work involved for each such employee.

19. Copies of records showing all certifications and training of each of the persons listed immediately above, and showing the date, nature, and providers of such training.

20. Copies of records showing exactly what equipment at Terminal 91 had power M/R work performed on it since April 1, 2009, and which employee did the work in each case, and how much time was billed for each such instance of power M/R.

21. All postings, advertisements, solicitations, etc., in calendar years 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009, in which Bridge Warehouse has sought or requested power mechanics for work in the Seattle area.

22. Copies of all communications (including all forms of notes or voice recordings attempting to recap such communications) between Bridge Warehouse and John Castranover and/or ILWU Local 19 concerning his employment status with Bridge Warehouse in calendar year 2009, including all communications relating to his release from Bridge Warehouse to work on cruise ship related power equipment at Terminal 91 and his potential return to Bridge Warehouse after the cruise ship season.

23. Copies of all records for calendar years 2006, 2007, 2008 and for 2009, wherein PMA employers have requested power mechanics represented by ILWU Local 19 for work in the Seattle area.

24. Copies of all records (including copies of notes of all forms, including voice recordings, relating to any such communications) for calendar years 2006, 2007, 2008 and for 2009, where the PMA has in any way discussed with ILWU Local 19 or with any

PMA member, the availability of power mechanics represented by ILWU Local 19 for work in the Seattle area.

25. The names, addresses and phone numbers of all employees working at Terminal 91 at any time since January 1, 2007, who were performing maintenance and repair of power equipment there, related to the cruise ship industry. In each case provide the nature of the work done, with whom it was done, and the hours of work involved.

26. Copies of records showing all certifications and training of each of the persons listed in the item immediately above, and showing the date, nature, and providers of such training.

27. Copies of all disciplinary actions and/or other forms of complaints and/or concerns about the work of power maintenance and repair personnel working in the Seattle area, at any time since January 1, 2000, under either an IAM Collective Bargaining Agreement or under an ILWU Collective Bargaining Agreement.

28. Copies of records showing for each ILWU Local 19-represented employee who has performed power M/R work on cruise ship-related work since April 1, 2009, at Terminal 91, the total number of power M/R assignments fulfilled by each such individual, the dates of each such assignment, the nature of that work, and the number of hours billed for each such assignment and the hourly billing rate to the customer.

29. Copies of records showing all instances since January 1, 1998 when ILWU Local 19-represented mechanics have performed power M/R work on cruise ship related power equipment in the Seattle area.

File

SEATTLE WASHINGTON

2009 JUN 29 PM 3:10

RECEIVED
NLRB-REGION 19

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **PMA'S PETITION TO REVOKE, REQUEST FOR A PROTECTIVE ORDER OR INSTRUCTION, AND RESPONSES TO SUBPOENA DUCES TECUM** upon the following parties in this case by email (where noted) and by first class mail at Portland, Oregon, on June 29, 2009, an envelope with postage prepaid thereon, addressed to:

John H. Fawley
National Labor Relations Board
Region 19
2948 Jackson Federal Building
915 Second Avenue
Seattle, WA 98174-1078
john.fawley@nrlrb.gov

Lester A. Heltzer, Executive Secretary
National Labor Relations Board
1099-14th Street, N.W., Room 11602
Washington, D.C. 20570

SSA Marine
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Seattle, WA 98119
Fax: 206-623-0179

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ILWU
1188 Franklin St., Suite 400
San Francisco, CA 94109-6852
Fax: 415-775-1302

and that said envelope contained a copy of the within PMA's Petition To Revoke, Request For A Protective Order Or Instruction, And Responses To Subpoena Duces Tecum.

/s/ Richard F. Liebman
Richard F. Liebman
Attorney for Pacific Maritime Association